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| 09/989,783      | 11/20/2001  | Thomas Joseph Boyle  | 05235.00002         | 2010             |

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EXAMINER

HWU, DAVIS D

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,783

Applicant(s)

BOYLE, THOMAS JOSEPH

Examiner

Davis Hwu

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-27 is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 8-14 is/are rejected.
- 7) ☒ Claim(s) 2,6 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 5, and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stephens.

The patent to Stephens shows a test system for testing a fire suppression system for determination of a flow ratio of at least two different constituents--foam 104 and water 124--where the fire suppression system is of a type that mixes the flow of the at least two constituents 104 and 124 for distribution whereby only one of the two constituents is required for testing of the flow ratio, the system comprising:

- a control box (see Figure 3);
- a first constituent flow meter system comprising pump 102 and flow meter 114; and
- a second constituent line flow meter system comprising line 56 and flow meter 43, wherein the first constituent 104 is directed through the first constituent flow meter system, the first constituent 104 is directed through the second constituent line flow meter system, each flow meter system detecting a flow rate therein, and the control box compares the flow rates of the first constituent through each flow meter system and indicates the flow rate ratio

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- had the second constituent 124 been directed through the second constituent line flow meter system (Column 6, lines 52-67 and Column 7, lines 1-26);
- a booster pump 126 as recited in claim 9.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens.

The patent to Stephens discloses the instant invention except for the first constituent and second constituent being water and foam concentrate, respectively. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made water as the first constituent and the foam concentrate as the second constituent, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.

***Allowable Subject Matter***

5. Claims 2, 6, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 15-27 are allowed. The prior art does not teach nor fairly suggest the combination of the limitations including the probe for measuring the conductivity of the

mixed constituents and a conductivity controller connected the probe as recited in claim 15.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Roe et al. and Arvidson et al. are pertinent to Applicant's invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7766 for regular communications and (703)308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.



Davis Hwu  
January 7, 2003